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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
08/883,636	06/26/97	GONG	L 3070-004

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LMC1/0829

EXAMINER

MEISLAHN, D

ART UNIT

PAPER NUMBER

2767

DATE MAILED:

08/29/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
08/883,636

Applicant(s)

Gong

Examiner
Douglas Meislahn

Group Art Unit
2767



☒ Responsive to communication(s) filed on Jun 23, 2000

☐ This action is FINAL.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 35 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claim

- ☒ Claim(s) 1-8 and 13-35 is/are pending in the application.
- Of the above, claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 1-8 and 13-35 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claims _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☒ The drawing(s) filed on Jun 26, 1997 is/are objected to by the Examiner.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some* ☒ None of the CERTIFIED copies of the priority documents have been
- ☐ received.
- ☐ received in Application No. (Series Code/Serial Number) _____.
- ☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

- ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- ☒ Notice of References Cited, PTO-892
- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☐ Interview Summary, PTO-413
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Notice of Informal Patent Application, PTO-152

— SEE OFFICE ACTION ON THE FOLLOWING PAGES —

DETAILED ACTION

Response to Amendment

1. This action is in response to the CPA amendment filed 23 June 2000 that amended claims 1, 2, 4-6, 8, 13, 14, and 16-19 while adding claims 20-35.

Drawings

2. Figures 1 and 6 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g).
3. The drawings are objected to because parts 500, 502, 506, and 508 of figure 5 are not labeled. Correction is required.

Response to Arguments

4. Applicant's arguments with respect to claims 1-8 and 13-19 have been considered but are moot in view of the new ground(s) of rejection.

Claim Objections

5. Claim 23 is objected to because of the following informalities: claim 23 has consecutive "the"s in line five. Appropriate correction is required.

Claim Rejections - 35 USC § 112

6. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

7. Claims 1-8 and 13-19 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly

connected, to make and/or use the invention. At no point does the specification use the phrase "communication protocol layer independent security." Furthermore, lines 23-24 of page 8 imply that the words "protocol" and "layer" are interchangeable, which would make the aforementioned phrase redundant. The first sentence of the background section further supports this. Considering the differences between protocols and layers, the examiner has interpreted the phrase as "communication layer independent security."

8. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

9. Claims 2, 6, and 14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

10. Claims 2, 6, and 14 give the already-used steps "a" and "b". It is unclear from the context of the claims how they are supposed to be interpreted. Do they refer to additional encryption with ~~layers~~ or do they specify that the layer independent security is ~~contradiction~~, so the examiner has interpreted

11. The following
form the basis for tr

A person shall


(e) the invention
United States patent
by another who has fulfilled the
title before the invention thereof by the applicant

ns of 35 U.S.C. 102 that
s Office action:

on for patent by another filed in the
nt, or on an international application
, and (4) of section 371(c) of this

Art Unit: 2767

12. Claims 1, 2, 5, 6, 13, 14, 17, 20, 21, 24, 25, 28, 29, 32, and 33 are rejected under 35 U.S.C. 102(e) as being anticipated by Elgamal (5671279).

 In line seven of column 15, Elgamal discusses transmitting data ⁱⁿ streams. This anticipates steps a-c, all of which are apparent from communicating via data streams. He goes on in the following paragraph to discuss encryption in the application layer. The application layer is the top layer, and as such, is not dependent upon any other layers. Decryption at a recipient is anticipated by any encryption. This anticipates the last three steps.

Claim 2 is anticipated when Elgamal, later in the above cited paragraph, talks about encrypting at the socket layer.

13. Claims 1, 5, 13, 17, 20, 24, 28, and 32 are rejected under 35 U.S.C. 102(e) as being anticipated by Helwig et al. (5793749).

Helwig et al., in the paragraph spanning columns five and six, teach encrypting a data stream and then formatting it to be compatible with a transmission protocol. From this description, it is apparent that the encryption is not dependent upon the communication protocol or any layers, thereby anticipating steps d-f of claim one. The first three steps of claim one are anticipated because the system uses data streams.

Claim Rejections - 35 USC § 103

14. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

15. Claims 3, 4, 7, 8, 15, 16, 18, 19, 22, 23, 26, 27, 30, 31, 34, and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Elgamal or Helwig et al. in view of Tremblay et al. (6065108).

Both Elgamal and Helwig et al. present systems in which encryption of a data stream is independent of the communication protocol and layer. They do not say that the communication channels or data streams are Java-based. As Tremblay et al. teach in lines 56-60 of column two, Java is intended for networked/distributed environments and enables the construction of virus-free, tamper-free systems. Therefore it would have been obvious to a person of ordinary skill in the art at the time the invention was made to base the systems of Elgamal or Helwig et al., both of which are networked or distributed environments, on Java, as taught by Tremblay et al. This would enable the implementation of a virus-free, tamper-free system.

16. Claims 2, 6, and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Helwig et al.

Helwig et al. present a system in which encryption of a data stream is independent of the communication protocol and layer. They do not say that there is additional encryption. Official notice is taken that it is old and well-known to increase security by encrypting already-encrypted data, and encryption is sometimes performed in communication protocols. Therefore it would have been obvious to a person of ordinary skill in the art at the time the invention was made to encrypt the already-encrypted data of Helwig et al. at a layer of the communication protocol, thereby increasing security.

Conclusion

17. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Smith et al. (6061448), Nguyen (5689566), Alajajian (5668880), Hershey et al. (5414833), and Carmi (5311593).


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Douglas J. Meislahn whose telephone number is (703) 305-1338. The examiner can normally be reached between 9AM - 6PM, except for every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tod Swann can be reached on (703) 308-7791. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-9051 for regular communications and (703) 308-9052 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

Douglas J. Meislahn
Examiner
Art Unit 2767

DJM
August 24, 2000


GILBERTO BARRON, JR.
PRIMARY EXAMINER
ART UNIT 222-2767